

COMPLAINTS AGAINST ARBORICULTURAL ASSOCIATION MEMBERS

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The Arboricultural Association (the Association) strives to promote and uphold the highest standards of professional practice and professional conduct amongst its membership. This principle is entrenched in the Association's Memorandum and Articles of Association.

An important consequence of this principle is that the Association has in place a complaints procedure which is available to anyone who wishes to make a complaint of unethical or unprofessional conduct against a member of the Association. This complaints procedure may be updated from time to time and you can see the most recent copy on the Association's website www.trees.org.uk.

These guidance notes are intended to assist anyone who may be considering making such a complaint. The following points should be borne in mind:

- 1 The Association is only empowered to deal with complaints made against one or more of its members. Before embarking upon the submission of a complaint, therefore, you are advised to check with us that the person, persons, organisation or a principal in the organisation that you are complaining about is a member of the Association by writing to the Association's Director:
Arboricultural Association
The Malthouse, Stroud Green,
Standish, Stonehouse,
Gloucestershire
GL10 3DL
UK
You should note that such enquiries cannot be dealt with by the telephone.
- 2 In order for the Association to be able to deal with a complaint, it has to be satisfied at the outset that what is being complained about, if the complaint is upheld, would amount to unethical or unprofessional conduct by the member. Complaints that fall outside these parameters cannot be dealt with by the Association. It is therefore strongly recommended that before submitting the complaint you should read the Association's Code of Ethics and Code of Professional Conduct which are given in Appendix 1.
- 3 Should your complaint fall outside these parameters, there may be other options available to you that could lead to a resolution of your dispute with, or grievance against, a member. These alternative courses of action are outside the Association's control and we recommend that you contact your legal adviser for advice.
- 4 If, however, you consider that submission of a complaint through the Association is the appropriate route, the procedural Rules for handling complaints are set out in Appendix 2. You are asked to familiarise yourself with these Rules before submitting a complaint.
- 5 The Association is not empowered to go beyond the disciplinary measures available to it under its Rules. You should note that the Association is not empowered to order a financial penalty against a member either by way of a fine or the awarding of monetary compensation.
- 6 Appendix 1 sets out the Association's Code of Ethics and Code of Professional Conduct. These codes may be updated from time to time and you can see the most recent copies on the Association's website www.trees.org.uk.

- 7 Before embarking upon the submission of a complaint where the date of the potential alleged breach of the Code of Ethics and/or Code of Professional Conduct predates 1st May 2003, you should advise the Director of the Association in writing of the date or time-period to which the potential complaint will refer. A copy of the Code of Ethics in place at the time of the potential alleged breach will be issued accordingly and this will be recorded by the Association's Director.
- 8 A complaint against a member of the Association will be considered in light of the Code of Ethics and Code of Professional Conduct in place at the time of the alleged breach.

Procedure for Making a Complaint

In all cases complainants must make all reasonable attempts to resolve matters with the member and demonstrate to the AA what those attempts have been, before the AA will accept the submission of a complaint. If you have any preliminary queries, or are in any doubt as to how best to submit a complaint, please contact the Director. Complaint submissions must be in writing only.

In compiling this document the Arboricultural Association is grateful to the Institute of Chartered Foresters, upon whose text this document is based, with permission.

APPENDIX 1

ARBORICULTURAL ASSOCIATION CODE OF ETHICS AND PROFESSIONAL CONDUCT

General

Every member shall at all times so order his or her conduct as to uphold the integrity and reputation of the profession of arboriculture and to safeguard the public interest in matters of safety and health and otherwise. Every member shall exercise his or her professional skill and judgement to the best of his or her ability and discharge his or her professional responsibilities with integrity.

Members who are principals shall endeavour to ensure that the acts of their staff insofar as they relate to the scope of their practice, whether or not their staff are members of the Association, comply with the Code of Ethics.

Code of Ethics

- 1 Every member shall uphold the integrity of the profession.
- 2 Every member shall strive for increasing an objective knowledge of trees and of forestry in all their contexts and apply this knowledge to the benefit of society.
- 3 Every member shall endeavour to promote public understanding of trees and forestry and to increase the public regard for the profession.
- 4 Every member shall practise his or her profession with due regard to sound ecological, social, economic and environmental principles to the advantage of present and future generations.
- 5 Every member shall perform only those services which are within the member's competence.

Code of Professional Conduct

The following will apply to each member specifically in relation to his or her professional conduct.

- 1 A member shall not voluntarily disclose any confidential information.
- 2 Unless a member has previously obtained in writing the permission of the relevant client or employer, a member shall not be engaged by, not have an interest in nor accept remuneration from any other business or principals which may give rise to any conflict with the interests of the member's said client or employer.
- 3 A member shall only act for more than one party in any transaction if all parties agree in advance in writing.
- 4 A member acting for a client shall inform the client in advance in writing of any other interest the member may have in any activities undertaken on behalf of the client.
- 5 A member shall not, by unfair or unprofessional means, do anything that could harm the business or prospects of a fellow member.
- 6 A member shall not knowingly investigate the professional competence of another member without the knowledge of that member.
- 7 A member shall be scrupulous in acknowledging the help obtained from others.
- 8 A member shall ensure that advertisements and other public announcements placed or made by the member are fair and accurate and are not such as could reasonably be seen to bring the Association or the profession into disrepute.
- 9 Advertisements and other public announcements relating to the scope or nature of the services to be provided by a member shall not contain any material which compares the member's services with the services offered or provided by any other member or members.

APPENDIX 2

COMPLAINT SUBMISSION, ASSESSMENT DETERMINATION AND APPEALS

Submission of complaint

- 1 A member, members or other individual or body wishing to complain of a breach of the Code of Ethics and/or Code of Professional Conduct by a member or members of the Association shall present such complaint to the Director in writing.

NOTE: In the following paragraphs, the word “member” shall mean the member or members against whom a complaint has been made. The word “complainant” shall mean the member, members or other individual or body making the complaint.

- 2 The Director shall immediately acknowledge receipt of a complaint and shall consider whether the complaint is valid. To be valid it must be both relevant and competent; that is, the incident(s) complained of, if substantiated, could amount to a breach of the Code of Ethics and/or Code of Professional Conduct.
- 3 If the complaint is found to be valid a Professional Complaints Panel (the Panel) will be constituted, normally comprising three people and normally AA members, selected by the Director and Chair of Professional Committee.
- 4 If the complaint is found to be invalid, the complaint will be rejected and the Director will provide the complainant with written reasons for the rejection of the complaint, copying the complaint and this response to the member.
- 5 If the complaint relates to a matter that is or is likely to be the subject of Court proceedings the Panel may delay the investigation until proceedings are completed or may decline to investigate, usually dependant on any legal precedent and/or direction issued by the Court.

NOTE: The Association reserves the right in exceptional circumstances to decline an investigation where appropriate or necessary and will normally advise the complainant of such reason.

Procedure for dealing with a valid complaint

- 6 If the complaint is found to be valid, the Director shall
 - 6.1 copy the complaint to the member
 - 6.2 specify a date, normally 28 days later (or such later date as may be specified in any particular case by the Chairman of the Panel), by which the member should submit any representations
 - 6.3 advise as to the names of those comprising the Complaints Panel advising the member that there are 14 days within which an objection can be lodged against any of them. The reasons for this objection must be clearly stated and the Director and Chair of Professional Committee will determine whether those objected to should be replaced
 - 6.4 advise the complainant that an investigation has begun inviting any further representations within 14 days (which will be disclosed to the member)
- 7 The member’s response to the complaint and any representations from the complainant shall be copied to both parties. The member and complainant may comment on the other’s submissions within 14 days.

- 8 Once the complaints procedure has been commenced under the foregoing paragraphs 6 & 7, the following will apply
 - 8.1 the complaints procedure shall not be terminated by the voluntary resignation of the member against whom the complaint has been laid; and
 - 8.2 a member against whom a complaint has been intimated and who thereafter resigns before the complaints procedure has been exhausted will not have the right to re-apply for membership of the Association on any future occasion
- 9 In the event that a complainant at any time intimates withdrawal of the complaint, the Director will immediately inform the Panel who may within 28 days thereafter intimate to the Director that they are exercising their option to take the place of the original complainant. Thereafter the complaint will proceed as if the Panel had been the original complainant.
- 10 Copies of the original complaint and all subsequent documentation will be sent to all members of the Panel. The Chairman of the Panel shall call a Determination Meeting at the convenience of Panel members to consider and dispose of the complaint. The member complained against and the complainant may attend, or be represented or accompanied at, the Determination Meeting, and must give 7 days' notice of the names of the person representing or accompanying them and of any witnesses they propose to call. It shall be the responsibility of the member or complainant to secure the attendance of any person appearing on their behalf.
- 11 Any expenses incurred by the member and/or complainant in attending a Determination Meeting will not normally be met by the Association. In exceptional circumstances the Association may meet or contribute to the subsistence and/or travel expenses of the member and/or complainant where the member and/or complainant satisfies the Panel that grave financial hardship or injustice would result if such expenses were not met or contributed to by the Association. Under no circumstances will the Association be responsible for meeting the costs or fees of any person accompanying or representing the member or complainant, or for loss of earnings or salary or any other consequential losses suffered by the member and/or the complainant.
- 12 Having considered the evidence laid before it, the Panel will determine by majority vote whether the complaint should be upheld or dismissed. If the complaint is upheld, the Panel will immediately proceed to decide by majority vote either:
 - 12.1 that the member shall be reprimanded, severely reprimanded or otherwise disciplined, or
 - 12.2 that the member be removed from membership.
- 13 The parties to the complaint will be advised by the Director in writing of the Panel's decision and the reasons for it.
- 14 The member shall have the right of appeal against, and the complainant shall have the right to request review of, the Panel's decision, within 14 days of its issue, under the terms of 16 to 24 below.
- 15 If no appeal has been lodged within the 14 day period set out in paragraph 14 above, and if the complaint was upheld by the Panel, then:
 - 15.1 the disciplinary sanction will immediately on expiry of the said 14 day period, be put into effect by the Panel, and
 - 15.2 the Chairman of the Panel may publish in the Association's Newsletter a brief statement of the Panel's decision which may include the full identity of the member.

- 16 If no request for review by the complainant has been lodged within the 14 day period set out at paragraph 14 above, and if the complaint was dismissed by the Panel, then if specifically requested by the member, the Chairman of the Panel may publish a brief statement in Association's Newsletter identifying a member to the effect that a complaint against the member under the Code of Ethics and Professional Conduct was presented and after determination, was dismissed by the Panel.

Appeal procedure

- 17 A member who has been subject to disciplinary sanction by the Panel shall have a right of appeal to the Director who will appoint a Complaints Appeal Board (the Board) on one or more of the following grounds:
- 17.1 that the procedure followed was defective in terms of the Association's procedures;
 - 17.2 that the procedure followed was unfair;
 - 17.3 that the Panel reached a finding or imposed a sanction which no reasonable tribunal could have reached or imposed in the circumstances of the case;
 - 17.4 that new pertinent evidence, which could not reasonably have been made available to the Panel, has since come to light.
- 18 A member wishing to appeal must do so, in specified terms of paragraph 17, in writing to the Secretary within 14 days of the issue of the Panel's decision.
- 19 An appellant's letter of appeal under paragraphs 17.1, 17.2 or 17.3 shall be copied to the complainant for any written comments the complainant wishes to make. The complainant shall be notified of the date by which any such comments must have been received.
- 20 An appeal under paragraph 17.4 must be accompanied by the evidence in question. The Secretary shall arrange for the Board to consider such evidence, and if the Board is satisfied that it could not reasonably have been made available to the Panel, shall direct the Panel to reconvene to consider it
- 21 An appeal under paragraph 17.4 must be accompanied by the evidence in question. The Secretary shall arrange for the Board to consider such evidence, and if the Board is satisfied that it could not reasonably have been made available to the Panel, shall direct the Panel to reconvene to consider it.
- 22 The Board shall convene to consider the appellant's letter of appeal under paragraph 17.1, 17.2, or 17.3, the decision of the Panel and accompanying reasons, and the comments if any of the complainant. Subject to these regulations, the Board may determine its own procedure for this purpose. The Board may dismiss the appeal, or uphold it, or uphold it in part, may overturn the finding of the Panel or remove any sanction or substitute a different sanction from amongst those available to the Panel. The Board's decision shall be final.
- 23 The complainant shall have the right, if dissatisfied with a finding of the Panel, to request that the matter be reviewed by the Board. The complainant shall specify in writing the reasons for seeking such review, but should bear in mind that the Board has no power to re-hear the case. The Secretary shall copy the request to the member who has been the subject of disciplinary proceedings who may, but shall not be obliged to, respond. Subject to these regulations, the procedure to be followed by the Board in considering any such request shall be determined by the Board. The Board shall have power under this paragraph, in exceptional circumstances indicating a possible miscarriage of justice, to order a re-hearing of the case by the Panel, and in such circumstances the procedure specified in paragraphs 6 to 15 of this regulation shall be followed to the extent possible.

If the Board declines to conduct a review or, having reviewed the matter under this paragraph, decides to take no action, its decision shall be final.

- 24 Decisions of the Board shall be notified to the parties and, in the case of decisions under paragraph 20, shall be accompanied by brief reasons.
- 25 The right of appeal under paragraph 16 and the right to seek review under paragraph 21 shall apply equally to the outcome of a reconvened hearing by the Panel.
- 26 Any decision of the Board may be published in the form of a brief statement of the name of the member concerned, the nature of the charge, the date of review or appeal hearing, and the outcome, provided that an appellant who has had an appeal upheld in full may request that such publication shall not be made in his or her case.

APPENDIX 3

DISCIPLINARY SANCTIONS

Important Note: The following information is for guidance only.

The Association, either through the Panel or through the Board, CANNOT fine or order any other financial penalty against a member. The following are the disciplinary sanctions available:

- 1 Reprimand – This is when a member is admonished by the Panel and the reprimand is noted on the member's record. The Panel Chairman has the option of publishing a note of the complaint in the Association's publication the Newsletter. The name of the member is not normally published in this case.
- 2 Severe Reprimand – In this case the member is firmly admonished by the Panel, who may at this stage take into account any previously upheld complaints against the member. The Panel Chairman has the option of publishing a note on the complaint in the Newsletter and in this instance the member's name would normally be published.
- 3 Removal from Membership – Responsibility for removal from membership rests with the Panel or the Board. The procedure is set down in Appendix 2.